

Message Text

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ACTION EB-11

INFO OCT-01 CIAE-00 COME-00 DODE-00 NSAE-00 RSC-01 TRSE-00

EUR-25 AEC-11 ISO-00 DRC-01 (ISO) W

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R 191415Z OCT 73

FM AMCONSUL DUSSELDORF

TO SECSTATE WASHDC 2073

INFO AMEMBASSY BONN

AMEMBASSY THE HAGUE

AMCONSUL FRANKFUT

AMCONSUL MUNICH

AMCONSUL STUTTGART

UNCLAS DUSSELDORF 1174

EXCON FOR COMMERCE

EO. 11652: N/A

TAGS: ESTC, GW

SUBJECT: C.O.D. VERTRIEBS GMBH, LORENZ ET. AL.

REF: A) STATE A-2659; B) STATE 192969; C) STUTTGART 841;

D) STATE 203434

1. AS DIRECTED IN REFERENCES A, B, AND D, CONGEN DUSSELDORF VISITED ON OCTOBER 16, 1973, RAINER KERN AND GUENTER WEISE OF D.O. D. VERTRIEBS-GESELLSCHAFT FUER DATENVERARBEITUNGSANLAGEN MBH TO DISCUSS CASE OF ILLEGAL DIVERSION OF IBM 370/145 TO SOVIET UNION. IF THE INFORMATION CONTAINED IN VOLUMINOUS PRIOR TRAFFIC ON THIS SUBJECT CAN BE ASSUMED TO BE CORRECT, KERN AND WEISE MAY BE CONSIDERED TO HAVE BEEN SOMEWHAT LESS THAN FORTHCOMING WITH THE REPORTING OFFICER. THE FOLLOWING IS A SUMMARY OF THE DISCUSSION. PERTINENT DOCUMENTATION OBTAINED FROM C.O.D. IS BEING FORWARDED UNDER SEPARATE COVER.

2. THE ASSOCIATION BETWEEN KER, WEISE AND HARRY DE GROOT WAS FIRST ESTABLISHED WHEN THEY WERE ALL EMPLOYED BY THE SAME FIRM, COMPUTER GMBH. DE GROOT LEFT TO ESTABLISH HIS
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OWN FIRM IN HOLLAND, COMPUTER HARDWARE CORP., AND KERN AND WEISE

TO ESTABLISH C.O.D. IN NOVEMBER OF 1972, DE GROOT APPROACHED C.O.D. WITH THE OFFER OF AN IBM 370/145 IF C.O.D. HAD A CUSTOMER. C.O.D. HAD HSHORTLY BEFORE BEEN CONTACTED BY EBERHARD SCHWAHN KG, BRZ BENUTZER-RECHENZENTRUM, 7 STUTTGART 1., DORNHALDENSTR. 5. IN THE ENSUING DISCUSSIONS, C.O.D. ARRANGED THE SALE BETWEEN CIS AND SCHWAHN. C.O.D. DID NOT, HOWEVER, REVEAL SCHWAHN'S NAME TO DE GROOT, USING INSTEAD AS A COVER THE NAME OF INFORMATIK SERVICE, MUNICH. KERN AND WEISE DEFENDED THIS AS A CUSTOM COMMON IN THE BUSINESS DESIGNED TO PREVENT UNSCRUPULOUS COMPETITION, IN THIS CASE DE GROOT, FROM APPROACHING SCHWAHN DIRECTLY AND CUTTING C.O.D. OUT OF THE SALE. A PURCHASE CONTRACT WAS SIGNED BETWEEN SCHWAHN AND C.O.D. ON NOVEMBER 30, 1972, CALLING FOR DELIVERY TO A FREE TRADE ZONE AT ANY EC AIRPORT, SCHWAHN TO ACCEPT CUSTODY OF THE EQUIPMENT PRIOR TO CLEARANCE THROUGH CUSTOMS, PAYMENT GUARANTEED BY AN IRREVOCABLE LETTER OF CREDIT. DISCUSSIONS WITH DE GROOT HAD YIELDED AN AGREEMENT THAT DE GROOT, BECAUSE OF HIS SUPPOSEDLY BETTER CONNECTION IN THE STATES, WOULD HANDLE SHIPPING AND THE EXPORT LICENSE.

3. WEISE CLAIMED LITTLE KNOWLEDGE OF THE FINANCIAL ARRANGEMENTS OF THE TRANSACTIONS INSISTING THAT EVERYTHING WAS DONE BY SCHWAHN'S FINANCIER I.C.M.S., VADUZ. HE ADMITTED DRESDNER BANK LETTER OF CREDIT 450/14377/11 WAS OPENED ON COD'S BEHALF FOR THIS DEAL, BUT INSISTED THAT FINANCING CAME FROM ICS. HE ALSO ADMITTED THAT ON THE BASIS OF THAT LETTER OF CREDIT, DRESDNER BANK LETTER OF CREDIT 450/7558/2 WAS OPENED ON C.I.S'S BEHALF. THIS WAS AS SPECIFIED IN THE CONTRACT. WEISE CLAIMS ONLY DOCUMENTATION ON THE TRANSACTIONS AVAILABLE TO C.O.D. WAS A COPY OF A TRANSFER OF DM 15,112.85 FROM THE DRESDNER BANK STUTTGART TO COD'S ACCOUNT AT THE BANK FUER GEMEINWIRTSCHAFT, DUESSELDORF. THE BANK DEPOSIT SHOWS THE FUNDS BEING TRANSFERRED BY I.C.SM VADUZ ON SCHWAHN KG'S BEHALF.

4. AS PROVIDED IN THE CONTRACT BETWEEN COD AND SCHWAHN, COD NOTIFIED SCHWAHN OF THE ARRIVAL OF THE SHIPMENT IN AMSTERDAM AND SCHWAHN SENT SOMEONE UNKNOWN TO COD TO TAKE POSSESSION. COD CONSIDERED THEIR INVOLVEMENT THUS TO BE ENDED AND CLAIMED NO DIRECT KNOWLEDGE OF THE DISPOSITION
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OF THE EQUIPMENT AFTER THAT.

5. BOTH KERN AND WEISE STATED THAT THEY DID NOT KNOW AT THE TIME OF LORENZ'S INVOLVEMENT. KERN, IN FACT, STATED THAT WHILE HE HAD HEARD OF LORENZ, HE HAD NEVER MET HIM. WEISE ADMITTED TO HAVING HAD LIMITED DEALINGS WITH LORENZ BUT INSISTED THAT HE HAD NOT KNOWN OF LORENZ'S INVOLVEMENT IN THIS TRANSACTION. HE STATED THAT HE FIRST LEARNED THAT LORENZ WAS

INVOLVED ON AUGUST 12, 1973, WHEN LORENZ CALLED HIM REGARDING THE PURCHASE OF THE TYPE 6346 CPU WHICH WAS CONFISCATED IN FRANKFURT. AT THAT TIME, LORENZ TOLD WEISE THAT THE 6346 WAS PURCHASED FROM TELEX ON HIS (LORENZ'S) BEHALF, NOT SCHWAHN KG AS WEISE HAD BELIEVED, AND THAT HE DID NOT FEEL OBLIGATED TO MAKE PAYMENT SINCE IT HAD BEEN CONFISCATED BY GERMAN CUSTOMS AUTHORITIES. DURING THE CONVERSATION, LORENZ ALSO TOLD WEISE THAT THE IBM 370/145 HAD BEEN PURCHASED ON HIS BEHALF. LORENZ FOLLOWED THIS UP WITH A LETTER TO COD DATED AUGUST 13, 1973, IN WHICH HE REITERATED THAT THE 6346 WAS PURCHASED ON HIS BEHALF AND HIS REFUSAL TO MAKE PAYMENT. WEISE REPLIED TO THAT LETTER ON AUGUST 17, 1973, IN WHICH HE STATED THAT HE HAD NOT KNOWN THAT THE 6346 WAS PURCHASED FOR LORENZ BUT THOUGHT THAT IT HAD BEEN ORDERED BY SCHWAHN KG FOR DEUTSCH TAILLEUR GMBH, KELSTERBACH. WEISE ALSO STATED THAT HIS PART OF THE CONTRACT HAD BEEN FULFILLED SINCE HE HAD DELIVERED THE MACHINE TO DEUTSCH TAILLEUR.

6. COPIES OF THE SCHWAHN-COD CONTRACT, PAYMENT RECORD, AND CORRESPONDENCE REGARDING THE 6346 BETWEEN COD AND LORENZ ARE BEING POUCHED. HENNEMEYER

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Drafter: n/a
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